

ANSWERING THE CALL

Changing the Tide of History

Dale Minami

Dale Minami was lead attorney for the plaintiff in Korematsu v. United States, 1984, a landmark decision overturning a forty-year-old federal conviction for refusal to obey exclusion orders aimed at Japanese Americans during World War II.

Getting Started on the Korematsu Case: I had been involved in civil rights in the seventies, suing institutions, a lot of institutions. I had just finished a case against Washington State University about creating an Asian American studies program because they didn't have one there. At about that time the redress movement was heating up and I had been involved in the earlier resolutions of the JCL—the national Japanese American Citizens League—to promote redress, and that was in 1972, 1974. But it didn't really get on track to moving until the late seventies and early eighties.

At about that time, the U.S. Congress decided to create a commission on wartime relocation and internment of civilians and had hearings throughout the country. I felt we should be a part of those hearings because what happened to Japanese Americans was so contrary to the Bill of Rights—to the first ten amendments of the Constitution. I helped organize a group of lawyers to put together a brief. It looked like a formal brief to the commission, arguing the deprivation of a number of the Bill of Rights issues that occurred in 1942 when Japanese Americans were taken away: loss of First Amendment rights to assembly, no government rights to redress, loss of Fourth Amendment rights against illegal search and seizure, Fifth Amendment rights to due process, Sixth Amendment right to

counsel, Eighth Amendment rights against cruel and unusual punishment, on and on.

What happened was another gentleman, named Peter Irons, a professor at the University of Massachusetts, Amherst, was writing a book at the time and he was given my name by people that knew I was doing civil rights work. He called me up. He had discovered evidence that the Supreme Court was defrauded—was lied to—by high officials during the Supreme Court cases of three Japanese men who refused the internment orders. He said that we may be able to open the case based on newly discovered evidence of a fundamental injustice, and he asked me if I wanted to participate. I was totally floored, shocked. I thought, Man, this guy must be crazy. I had wondered about it all this time and now I find that he has this actual evidence, so I looked at the evidence and it was remarkable. Memoranda from government lawyers saying, We are lying to the Supreme Court in these cases; we have evidence contrary to what we are arguing—now if we don't reveal this we will be breaching our ethical duties as lawyers.

There was also some additional evidence that showed that they deliberately falsified some of the rationales in writing and they changed the wording and destroyed the originals so no one would know they changed the original justifications and submitted the revised, more palatable justifications to the Supreme Court. That was the proverbial smoking gun that lawyers dream about.

So I assembled the original pro bono team that had submitted the brief to the commission and contacted the only Japanese American lawyer I knew in Portland (because we had to bring the case to Portland), and two Japanese American attorneys in Seattle. We developed this great young work team and that's how we started it.

Through the people I've talked to, people I've seen and observed, I think the case made a difference in terms of understanding the legal system and its failure in 1943–1944. It's helped people understand the injustice that happened to Japanese Americans in

1942 when they were taken away to camps. It's helped to inform the history of American racism, which has been an undercurrent, and sometimes overflowing to overt racism, in our history. So I think to the degree that we've educated people, I think we've made a difference.

An American of Japanese Descent: I'm third-generation Japanese American and was born right after the camps. It informs your sensibility of how you look at this country when your brother, who is one or two years older, was taken away to camps without due process. That type of injustice occurs and the Congress acquiesces, the president issues the order, and the Supreme Court blindly accepts the judgment of the military that there was some necessity to imprison these potential spies and saboteurs. When we were able to show later on that in fact there is no good cause to intern Japanese Americans, that definitely has an impact on how you see the world.

To that extent it propelled me into doing more types of civil rights work and speaking out about racism or discrimination. But that actually is a lesser part of my law practice today, since I mostly do personal injury work, which in the earlier period sustained the civil rights work that I was mainly doing pro bono.

When I was doing civil rights work, it was a major factor in getting me involved and helping create a firm that emphasized civil rights cases along with other types of practices. I also do some entertainment law, representing journalists.

Growing Up: I grew up in a city called Gardena, south of Los Angeles. It was a mixed, lower-middle-class community at that time. Kind of a balance of mostly Caucasian but also a large number of Japanese Americans, Latino Americans, Mexican Americans, and African Americans who lived in mostly the border areas, but we all went to school together.

It was a time of innocence—when the nation's race problems hadn't exploded yet. It was a time of blissful ignorance, perhaps partly because we accepted the principles of the majority society—the melting pot theory.

Then too, in Gardena, going to school, a high proportion of the student leaders and athletes were Japanese. Student government had the highest academic achievers. So there was visibility of achievement. You really didn't feel much different.

It was only when I went to USC that I discovered—USC at that time was kind of a microcosm of this country—that rich white males dominated the fraternities that essentially ruled the campus. It was there that I first discovered social ostracism, class differences, race differences. It was only after I watched Watts burn down from the freeway driving home from a volleyball game that I got to thinking about these race relations. My world had been very Pollyannish. It was very simple until I started going to college. I started to learn a lot more growing up.

Family and Values: Being Japanese Americans, we were taught to be very achievement oriented. We were taught to succeed. It wasn't whether you *wanted* to go to college, it was that you *had* to go to college or grad school. Those values of education were Japanese definitely, no question about it. But they're also influenced by the deprivations my parents suffered. My older brother told a story a few years ago—it was the first time I'd heard it. My dad had wanted him to go to grad school and he wasn't sure what he was going to do. So my dad looked at him and said, "They can take away your freedom but they cannot take away your education. You're going."

My dad was a gardener, my grandfather, a farmer. My dad was born in Riverside, my mother in Oxnard. My father started out farming. Coming back from the war he repaired appliances then he became a gardener just to make a living, but his passion was sporting goods. He was a really good athlete. He sold golf clubs, taught people how to play golf and tennis, and eventually he opened a small sporting goods store in Gardena. My mother's father was an insurance salesman. He was actually pretty well-off, at New York Life, one of the few companies that accepted Asian American agents. So he became pretty successful.

When I was growing up, my parents only talked about internment in bits and pieces. Until the redress movement started they didn't really want to talk about it. They told stories that were harmless little anecdotes. There was kind of a bitterness, the stories of deprivation—we didn't begin to hear them until much later on in our lives.

They were taken to Santa Anita at first, a famous racetrack in Los Angeles. That's where Japanese Americans were first sent in Los Angeles. They were put in horse stalls. My mom says when my aunt got into the stall, there was horse shit on the walls, on the ground. They had to sleep on old hay; it smelled. They had no privacy because it was like horse doors—the wind came through. It was freezing. It was the first time I saw her cry when she talked about that experience.

Then they were sent to Rohwer, Arkansas, which is a swamp-land in the south of Arkansas where they lived for years. The conditions were bad. They talked a lot about how hot and humid it was, something they had never experienced, and about these bugs, these mosquitoes and these certain kind of gnats that they had never heard of. They had to build a lot of their own furniture.

In the camp they had to use latrines that were open-door, and they had to share barracks with another family, so they had no privacy. My brother was only one year old at the time.

Identity: I think so many of us in our generation have gone through points where we rejected all things Japanese. We disliked Japanese for their cheap products, for the fact that they started the war and put people in camps. From the way they looked, the way they dressed, to making fun of FOBs (fresh off the boats; now they're fresh off the planes), and so we were filled with self-hatred that was partly induced by the fact that Japan went to war with the United States. Also, the Japanese in Japan disowned the Japanese that came to America—treated them as second-class citizens who weren't good enough to make it in Japan. I think that's changed quite a bit. Japan is much more embracing of Japanese Americans now.

So at one point I would have preferred not to have been Japanese. If someone granted me a wish, of course I would've said I want to be Caucasian.

Moving out of that mind-set was pretty evolutionary at one level and revolutionary at another, in the sense that without the civil rights movement, without being able to read the autobiography of Malcolm X or Richard Wright's *Native Son* or Ralph Ellison's *Invisible Man*, without those kind of guidebooks for me and my generation, it would have been very difficult for us. I think we would have never seen the similarities between the Japanese American and African American experience of racism, which essentially colonizes your mind and makes you inculcate feelings of inferiority. Without black Americans essentially throwing off the psychological shackles of a colonialization process, we would have never understood—I would have married somebody, moved out into the suburbs, and tried not to be Japanese.

I think that black pride and all of what happened afterward in terms of understanding your history made it possible for us as Asian Americans to feel that we had self-worth. Without Latinos and Brown Power and Black Power I don't think we would have had the same kind of stability in regard to our identity as we do now.

I just got back from Japan two months ago and I loved it. But I know I'll never be Japanese like them and they know it too. Yet I have a number of friends from Japan and we operate on a level of affection and affinity which is unlike anywhere else. So that part of it makes no difference at all. The fact that I don't speak the language at all and that I don't understand the culture quite as well as the people from Japan doesn't bother me all that much.

Can Internment Happen Again? Absolutely: it's not a foregone conclusion that everybody or a lot of people thought it was the wrong thing to do back in 1942, or that it can't happen again.

You still find a great number of Americans who have never known about internment. I think it depends on where you live. If

you live in the San Francisco area, which is very liberal and progressive, most people I know are taught about it. I think if you live somewhere else, there is a great deal of ignorance, despite all the publicity, all the educational work and materials that have been created, and the books that have been written.

During the most recent Persian Gulf War there had been talk about imprisoning Palestinians, Arabs en masse. We almost saw a recurrence of that after September 11, when hysteria led to the curtailment of civil rights in a great way. I think the fact that Japanese Americans have gone through that experience—the fact that they have resurrected the notion of injustice and that they institutionalized that injustice and the reclaiming of their citizenship and birthright through the redress movement—has done a lot to educate this country. It's done a lot to deter people from making that same mistake. So, politically, if there's enough of a crisis or hysteria, absolutely it can happen again. I don't have as much faith that the simple strength of people's morality in this country is going to prevent this from happening. I believe the political and economic circumstances will dictate whether this will happen again.

I think it's an absolute principle that international tensions affect the minority groups in this country. That's why in the 1980s, when Japan destroyed the competition in cars, people mistaken for Japanese got killed. I think it's a natural phenomenon and it should be reversed; it shouldn't be natural. But I think people tend to take out their hostilities because they can't distinguish between people from other countries and American citizens—especially in the racial context, like Japanese Americans. I think that's going to happen to Chinese Americans when China becomes even a greater power. I think you're going to find more backlash against Asian Americans because they can't distinguish between us. In terms of either hate crimes or legislation, it's going to take a different kind of manifestation, but it will reflect, I think, an anti-Chinese viewpoint whether you're Chinese American or Chinese from China.

You can always catch or always feel hysteria in this country, and, given the underpinnings of racism in this country, those feelings really come out. They haven't been eradicated and I don't think you can legislate how people feel.

I wish I was more optimistic. I do feel that you need great leadership on racial issues and people who speak out—people who lead by showing that the terrible results of racism are important. Continued education is very important, to teach people to value diversity. So I think this is a kind of phenomenon, racism, that has to be fought on all fronts.

The political power of racial minority groups is important because without political power you don't get respect. People of color need to organize and be strong. They can't do it alone. They have to rally with people of goodwill of all races and all colors so that the leaders that you respond to and elect, the people you vote for, will be on your side if there is a crisis or hysteria.